IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HONOURBALE SRI JUSTICE ELIPE DHARMA RAO

W.P. No. 18567 OF 2005

Dated : August 22, 2005

Between:

Avula Subba Reddy and another.

Petitioners

AND

The Mandal Revenue Officer,

Kanigiri, Prakasam District and two others.

Respondents

THE HONOURBALE SRI JUSTICE ELIPE DHARMA RAO

W.P. No. 18567 OF 2005

ORAL ORDER:

Aggrieved of the issuance of proceedings RC.A 118/2005 dated

17.8.2005 issued by the first respondent, directing the Panchayat Secretary, Kanigir to visit the lands in Sy. No. 397/2A2 of the 5th ward, Kanigiri and to take steps for removal of unauthroised occupants on the existing road and to restore the same for the use of the villagers, the present writ petition is filed.

It is submitted that the first petitioner purchased an extent of 12½ ankanams in Sy. No.397/2A by registered sale deed and the second petitioner purchased 12 ankanams by way of registered sale deed in Sy. No.397/2A and 23 ½ ankanams of land in Sy. No.397/2B. While so, the 3rd respondent along with others is trying to mark a public passage through their lands and also through other private lands, who have constructed pucca houses in the same lands. In furtherance of this objective, the 3rd respondent submitted a representation to the first respondent stating that there was a public road existing in Sy. No. 397/2A to an extent of Ac.0.09 cents which was encroached by the petitioners and four others. Consequently, the first respondent without causing any enquiry, relying on the report of the Mandal Surveyor that the petitioners have encroached, has directed the Panchayat Secretary to visit the spot and take action for removal of unauthorized occupation. As such the petitioner filed this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader.

It is the case of the petitioners that they have purchased the above said property under registered sale deeds for valuable consideration, where as the representation of the 3rd respondent is that there was a public way passing through the Sy. No.397/2A2 and the petitioners and four others are in unauthorized occupation of the land, as such issued the impugned proceeding. The possession of the petitioners is not in dispute. Therefore, it is the bounden duty of the respondents to put the petitioners on notice and cause necessary enquiry. Even if the petitioners are in unauthorized possession of the land, law requires notice to be issued to the petitioners. Therefore, while

disposing of the writ petition at the stage of admission, I direct the respondents not to dispossess the petitioners from the above said lands, without following due process of law. I am fortified in this view by a Division Bench of this court in in *Pilli Lakshmana Rao and others Vs. Executive Officer, Gram Panchayath, Challapalle and others ()* and cause necessary enquiry before dispossessing the petitioners from the petition schedule lands.

With these directions, the writ petition stands disposed of. No order as to costs.

Elipe Dharma Rao, J.

August 22, 2005

MAS.